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July 30, 2007

### BY CM/ECF

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
844 King Street  
Wilmington, DE 19801

Re: *Voith Paper GmbH & Co, KG v. JohnsonFoil, Inc.*  
Civil Action No. 07-0226-JJF

Dear Judge Farnan:

We, together with the law firm Greenblum & Bernstein, represent the Plaintiff, Voith Paper GMBH & Co. KG, in the above referenced litigation.

As instructed by the Court in its Order Setting Rule 16(b) Conference, dated July 17, 2007, the parties have conferred and agreed upon the dates and discovery limitations required by the form of order. The purpose of this letter is to inform the Court of the agreed upon dates and limitations, and alert the Court to issues that will likely be discussed at the hearing. The agreed upon dates and discovery limitations are as follows:

1. Pre-Discovery Disclosures. The parties will exchange by September 21, 2007, the information required by Fed. R. Civ. P. 26(a) (1) and D. Del. LR 16.2.
2. Joinder of other Parties. All motions to join other parties shall be filed on or before December 21, 2007.
3. Discovery.

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(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by February 15, 2008.

(b) Maximum of 25 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 50 requests for admission by each side.

(d) Maximum of 10 depositions by plaintiff and 10 by defendant, excluding expert depositions.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a) (2) shall be served from the party with the burden of proof on May 21, 2008, rebuttal expert reports shall be served on June 18, 2008 (agreed to change in form of order).

(g) Fact discovery shall close on April 30, 2008 (agreed to but not required by form of order).

(h) Expert discovery shall close on July 18, 2008 (agreed to but not required by form of order).

4. Amendment of the Pleadings. All motions to amend the pleadings shall be filed on or before December 21, 2007.

5. Case Dispositive Motions. Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before August 20, 2008.

The parties have not submitted a proposed Order because no agreement could be reached on the final wording. Plaintiff believes that the form of order with the above dates and limitations inserted would be appropriate. Defendant wants to include additional language to the form of order which is objectionable to Plaintiff. Specifically, Defendant wants the Order to include the following paragraph:

Defendant requests a Markman Hearing and proposes that it be scheduled in January 2008 if that is convenient to the Court. Defendant also proposes that Plaintiff identify its asserted claims by October 1, 2007, and that all Markman briefing be completed by December 15, 2007. Plaintiff is uncertain at this time whether a Markman Hearing will be necessary. A Markman Hearing will be held on \_\_\_\_\_.

Plaintiff believes that the additional language should not be included because the language of the form of order which provides that the parties can request a Markman Hearing is

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appropriate. There is no need to schedule a Markman hearing at this time because it is unclear whether a Markman Hearing will be necessary. It would be more practical after the parties have conducted discovery to determine if, and the extent of, any disputes regarding claim construction which may require a Markman Hearing.

Plaintiff also objects to setting a date certain at this time for having to identify the asserted claims. Defendant's proposal is unreasonable because the proposed date is a little more than a week after initial disclosures are due and does not provide Plaintiff with adequate time to complete the discovery it will need to properly determine which claims ultimately will be asserted at trial. Plaintiff believes that the more reasonable approach is for Defendant to propound a contention interrogatory requesting identification of the asserted claims, which will be responded to when appropriate. Defendant does not agree with this position.

The parties will be prepared to discuss these matters at the August 1, 2007 hearing.

Respectfully submitted,



Chad S.C. Stover (#4919)

CS:cg

cc: Clerk of the Court (by hand delivery and CM/ECF)  
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Anthony S. Volpe, Esquire (by e-mail)  
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